

### **REMARKS/ARGUMENTS**

Applicants wish to thank Examiner for the careful review of the IDS, claims, specification, and drawings. Applicants also wish to thank Examiner for providing suggestions to overcome rejections.

#### *Claims*

Claims 1 and 16 have been amended to provide clarification without the scopes of the claims being changed.

After entry of this amendment, claims 1-21 are pending

It is respectfully submitted that each and every feature recited in the pending claims is fully supported in the application as filed. No new subject matter has been added.

#### **Rejections under 35 USC § 101**

The Office Action argues that claims 1-21 are rejected under 35 U.S.C. §101 because, in order to comply with §101 a process/ method must (1) be tied to a particular machine or apparatus, or (2) transform underlying subject matter (such as an article or materials) to a different state or thing.

Examiner suggests that Applicants amend the independent claims to include terminology such as "by the computer" in the limitations for bundling capacity releases and also for each limitation for receiving and obtaining data, capacity releases, derivative purchase requests, derivative contracts and the like.

The independent claims 1 and 16 have been amended based on Examiner's suggestions.

No new subject matter has been added.

#### **Rejections under 35 USC § 112**

The Office Action argues that claims 1 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Office Action argues that it is unclear to the Examiner how derivative contracts are created by bundling capacity releases.

For clarification, claims 1 and 16 have been amended to recite the features of bundling capacity releases in accordance with a geographic bundling criterion to generate bundles and the features of creating a plurality of available derivative contracts using information associated with

the bundles. Support for the amendments may be found in, for example, paragraph [0065] and the previously presented claims.

No new subject matter has been added.

**Rejections under 35 USC § 103**

The Office Action argues that claims 1-10, 14-17, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nadan et al. (US Pub. No. 2005/0021346), hereinafter “Nadan”, in view of Blalock et al. (US Pub. No. 2001/0047284), hereinafter “Nadan”, in further view of Bjerre et al. (US Pub. No. 2002/0123911), “hereinafter “Bjerre”.

The Office Action also argues that claims 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nadan in view of Blalock in further view of Bjerre as applied to claims 1 and 16, in further view of Scheer (US Pub. No. US 2002/0138358), hereinafter “Scheer”.

The Office Action also argues that claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nadan in view of Blalock in further view of Bjerre as applied to claims 1 and 16, in further view of Scheer, as applied to claim 11, in further view of Naseh et al. (US Pub. No. 2002/0069155), hereinafter Naseh.

The Office Action also argues that claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nadan in view of Blalock in further view of Bjerre, as applied to claim 16, in further view of Official Notice.

Applicants respectfully request reconsideration of the rejections.

The independent claims 1 and 16 have been amended for clarification.

It is respectfully submitted that each of independent claims 1 and 16 includes limitations, in the manner claimed, that are not taught by the cited prior art references, including Nadan, Blalock, Bjerre, Scheer, Naseh, and Official Notice. For example, claim 1 includes the limitations, in the manner claimed, of simultaneously displaying user-specific forecast data in a second data section of the computer window when the group of derivative contracts is displayed in the first data section of the computer window. As another example, claim 1 also includes the limitations, in the manner claimed, that the user-specific forecast data includes demand forecasts made by shippers of demand between the first location and the second location, and that the user-specific forecast data does not include forecasts associated with any shipper that has not expressed a prior implicit or explicit authorization for the first user to view the shipper's forecast data. As another

example, claim 16 includes the limitations, in the manner claimed, of simultaneously displaying aggregated forecast data in a second data section of the computer window when the plurality of available derivative contracts is displayed in the first data section of the computer window. As another example, claim 16 also includes the limitations, in the manner claimed, that the aggregated forecast data includes demand forecasts made by a plurality of shippers of demand between the first location and the second location, and that the aggregated forecast data does not reveal data that links a specific shipper to a specific shipment quantity.

In contrast, the cited references do not disclose the abovementioned example limitations in the manner claimed in claims 1 and 16. The Office Action argues that Blalock discloses an embodiment displaying RFQ data for two lanes in [0109]-[0110] and FIG. 7 as well as displaying shipper's forecast in [0110]. The Office Action also argues that Examiner interprets RFQ (request for quotation) data as analogous to Applicant's derivative contracts in that such data represents transportation contracts. Reconsideration of the arguments is respectfully requested. It is respectfully submitted RFQ (request for quotation) data may be interpreted as analogous to Applicants' derivative purchase request, but RFQ data cannot be interpreted as analogous to a group/plurality of derivative contracts. It is also respectfully submitted that Blalock's RFQ includes the shipper's forecast. Blalock does not disclose simultaneously displaying a plurality/group of contracts in a first data section and displaying multiple shippers' forecast data in a (separate) second data section. Blalock disclose a single shipper's forecast, but Blalock does not disclose forecast data that includes demand forecasts made by multiple shippers.

As another example, claim 16 also includes the limitations, in the manner claimed, that the number of derivative contracts in the plurality of available derivative contracts is smaller than the number of capacity releases represented by the capacity release data.

In contrast, the cited references do not disclose the above example limitations in the manner claimed in claim 16.

As another example, claim 1 also includes the limitations, in the manner claimed, of selecting a subset of derivative contracts to satisfy a derivative purchase request, wherein the subset includes at least a first derivative contract for a first mode of the two transportation modes and a second derivative contract for a second mode of the two transportation modes.

In contrast, the cited prior art references do not teach the above example limitations in the manner claimed.

For the aforementioned reasons and others, it is respectfully submitted that independent claims 1 and 16 are novel, non-obvious, and patentable over the cited arts of records, taken alone or in combination.

The dependent claims also include limitations, in the manner claimed, that are not disclosed by the cited references. For example, claims 11 and 18 include the limitations, in the manner claimed, that the forecast data includes self-assessed qualitative ratings by the shippers and that the self-assessed qualitative ratings are performed using at least four of a set of criteria that includes demand, manufacturing readiness, manufacturing location, capacity, product, lane, and lane stability.

In contrast, the cited references do not teach at least four of the recited criteria. The Office Action argues that Scheer's excess inventory is related to the stocking level for a location. However, Scheer's excess inventory is not used by shippers to perform self-assessed qualitative ratings. For this reason and others, Scheer does not teach at least four of the recited criteria in the manner claimed.

It is also respectfully submitted that claims 2-15 and 17-21 which depend from at least one of claims 1 and 16 also are novel, nonobvious, and patentable not only due to their dependence from at least one of the patentable parent claims 1 and 16 but also due to their recitation of independently patentable features.

No new subject matter has been added.

Amendment C submitted in response to  
Office Action mailed 02/25/2009  
U.S. Pat App. No. 10/810,061  
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Attorney Docket No. FFRT-P003

**CONCLUSION**

In view of the discussion herein, Applicant(s) believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at 408-213-9540.

Applicant(s) petition for a (1) One-Month(s) extension of time. A credit card payment in the amount of \$65.00 is included herewith for payment of the extension of time fee. However, the commissioner is authorized to charge any fees beyond the amount enclosed which may be required, or to credit any overpayment, to Deposit Account No. 50-2284 (Order No. FFRT-P003).

Respectfully submitted,  
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